

**Malta's aviation industry has gone from strength to strength since introducing the national aircraft register and some interesting tax structuring opportunities.**



The Maltese national aircraft register has proliferated following numerous developments, such as the revamping of the Maltese regulations on the registration of aircraft in 2010, when implementing the Cape Town Convention. Other factors influencing its booming aviation industry include an extensive network of tax treaties and various tax incentives.

## **SUPPORTIVE LEGISLATION**

Malta is currently home to 28 entities with an Air Operator Certificate, while the aircraft register reaches 213 aircraft. The steep rise in both can be attributed to the Aircraft Registration Act, which allows for individuals, corporate bodies and even trustees to register their aircraft in Malta, whether they are the owner of an aircraft under construction, or an operator or buyer under a conditional sale. Additionally, Malta's jurisdiction provides the option of fractional owners of an aircraft. Every ownership interest or share in an aircraft may be annotated in the national aircraft register. The Act further regulates the registration of mortgages, claims, security interests and privileges; the ranking of such security interests; and the rights of mortgagees and holders of security interests in respect of an aircraft. Malta's ratification of the Cape Town Convention provides for increased safeguards and legal certainty, owing in particular to its recognition of modern practices in asset-based finance.

Complementing this dedicated national legislation on aircraft, Malta law allows for securitisation vehicles, which are easily adapted to structures owning aircraft as assets.

## **TAX STRUCTURING OPPORTUNITIES**

An array of fiscal benefits is also present to stimulate growth in the aircraft sector. Besides the traditional local tax refund system, which results in a reduced overall corporate tax rate depending on the nature of the activity, such as in the case of the allowable leasing structures, Malta deems all income derived from the ownership, lease and operation of an aircraft engine used for the international transport of goods or passengers to arise outside Malta. This, coupled with the fact that Malta's tax treaties are generally based on the OECD model under which income derived from the operation of aircraft in international traffic should generally be taxable only in the state where the effective management of the enterprise is situated, allows for interesting tax structuring opportunities.

The applicable overall effective tax rate may be reduced further by virtue of accelerated depreciation rates under domestic law. Depending on the type of lease and who maintains the burden of wear and tear, a deduction for tax depreciation may be allowable. The absence of withholding tax on outbound payment of dividends and interest additionally helps in minimising the tax burden.

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Nexia BT can provide assistance to a portfolio of services in connection with the aviation industry including tax structuring, the incorporation of the appropriate corporate structures and the liaison with legal and operations experts for the registration of aircraft and aircraft mortgages, co-ordination of aircraft financing transactions and administration and acting as the resident agent in Malta on behalf of aircraft owners and operators.

## CONTACTS

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